

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

AMBULATORY SURGICAL CENTER OF
NEW JERSEY,

Plaintiff,

v.

HORIZON HEALTHCARE SERVICES, INC
d/b/a HORIZON BLUE CROSS BLUE
SHIELD OF NEW JERSEY,

Defendant.

Civil Action No. 07-2538 (SDW)

ORDER

February 21, 2008

WIGENTON, District Judge.

For the reasons set forth in this Court's Opinion of February 21, 2008,

It is on this 21st day of February 2008,

ORDERED that Defendant's Motion to Dismiss Count One of Plaintiff's Complaint is **DENIED**; and it is further

ORDERED that Defendant's Motion to Dismiss Counts Two, Three and Four of Plaintiff's Complaint is **GRANTED** with prejudice; and it is further

ORDERED that Defendant's Motion to Dismiss Counts Five, Six and Seven of Plaintiff's Complaint is **GRANTED** without prejudice; and it is further

ORDERED that Plaintiff is granted leave to file within 45 days from the date of this Order an amended complaint sufficiently alleging its facts, claims and theories for Counts Five, Six and Seven under ERISA.

s/Susan D. Wigenton, U.S.D.J.

cc: Madeline Cox Arleo, U.S.M.J.